

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 10-20635

Honorable David M. Lawson

v.

MARVIN J. DAVIS, JR.,

Defendant.

ORDER DENYING MOTION FOR RECONSIDERATION

On April 18, 2012, defendant Davis filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255. The government requested additional time to respond, and the Court ordered the government to respond to the motion to vacate on or before August 26, 2012. On July 9, 2012, the defendant filed a motion for reconsideration of the Court's order granting an extension of time. The defendant argues that the transcripts that the government indicated in its motion that it had yet to obtain were available beginning on April 30, 2012. The defendant also indicates that he does not object, in principle, to the government's motion to extend time.

Motions for reconsideration may be granted pursuant to E.D. Mich. LR 7.1(g)(1) when the moving party shows (1) a "palpable defect," (2) that misled the court and the parties, and (3) that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(g)(3). A "palpable defect" is a defect which is obvious, clear, unmistakable, manifest, or plain. *Mich. Dep't of Treasury v. Michalec*, 181 F. Supp. 2d 731, 734 (E.D. Mich. 2002) (citations omitted). However, motions for reconsideration should not be granted when they "merely present the same issues ruled upon by the court, either expressly or by reasonable implication." E.D. Mich. LR 7.1(g)(3).

The defendant appears to be correct that the transcripts in question were available to the government on April 30, 2012. However, the defendant's motion must nevertheless be denied, as correcting this defect would not lead to a different disposition of the government's motion to extend time. The government also indicated that it required additional time to consult with defense counsel before responding to the defendant's motion. This provided a sufficient basis upon which to grant the government's motion to extend.

Accordingly, it is **ORDERED** that the defendant's motion for reconsideration [dkt. #306] is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: July 20, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 20, 2012.

s/Deborah R. Tofil
DEBORAH R. TOFIL